

REMARKS

The Office Action of September 6, 2007 was received and carefully reviewed. In view thereof, claims 3 and 8 have been amended. Accordingly, claims 1-9 are presently pending in the application, of which, claims 1-2 have been withdrawn. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 3 and 8 were objected to because of informalities. Accordingly, claims 3 and 8 have been amended to obviate the Examiner's concerns. Thus, it is believed that the claims, as amended, are in compliance.

Claim 8 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 8 has been amended to recite "the step of forming cutaways or holes in the frame." Thus, it is believed that the claim 8, as amended, is in compliance.

Applicants submit herewith a copy of a research planning document prepared by the inventors included as part of the invention disclosure of the above-identified application. Each of the inventors prepared the research planning document at ShinMaywa Industries, Ltd. on November 30, 2001, prior to the filing date of the related priority Japanese application filed November 7, 2002. The research planning document discloses a plan for fabricating an airplane frame without fasteners. It further describes technology for welding two abutted flat plates by a FSW without overlapping (e.g., see FIG. 6). Thus, conception of the invention is established by November 30, 2001 at the latest. The work schedule the attached Table 1, included in the research planning document, further describes various examinations which were conducted until March 2002. Accordingly, the invention was practiced and filed as a patent application in Japan on November 7, 2002. Applicants further provide herewith a Declaration under 37 CFR § 1.131 to constructively swear behind the

November 30, 2001 research planning document.

Claims 3, 4, and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Dracup et al. Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Dracup et al., as applied to claim 3 above, and further in view of Litwinski et al. (U.S. Patent No. 6,780,525). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Dracup et al., as applied to claim 3 above, and further in view of Myer (U.S. Patent No. 4,278,863). The cited prior art, however, fails to render the claimed invention unpatentable. Each of the claims recite a specific combination of features that distinguishes the invention from the prior art in different ways.

For example, the Examiner readily admits that *"AAPA does not expressly teach abutting the inner curved surfaces of the outer frame and the inner frame and joining them together by friction stir welding to form a weld seam along the abutted surfaces"* (see page 4, paragraph 1 of the outstanding Office Action). The Examiner then turns to Dracup et al. in an attempt to cure the deficiencies of AAPA. However, the subject matter of Dracup et al. is disqualified as prior art, at least, in accordance with 37 C.F.R. 1.131, MPEP § 715.07(a), and MPEP § 2138.06 for examination procedure. The subject matter of Dracup et al., upon which the Examiner relies, i.e., column 11, lines 38-44, was newly added subject matter included **only** in the continuation-in-part of the Dracup et al. reference. Thus, the priority date of this information discussed in Dracup et al. is **only** entitled to the May 15, 2003 date. As evidenced, *inter alia*, by Applicants' attached copy of the research planning document and Declaration under 37 CFR § 1.131, the subject matter, to which the present application is fully entitled, predates the Dracup et al. reference. Hence, the information of Dracup et al., relied upon by the Examiner, is not available as prior art.

The remaining references, either to Litwinski et al. or Myer, also do not cure the deficiencies of AAPA in that they fail to disclose the recited elements of the claims found lacking by AAPA. Thus, the Office has failed to establish a *prima facie* case of obviousness of a claimed invention in that all the claim limitations have not been taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 196 (CCPA 1970). Therefore, it is respectfully submitted that AAPA, Litwinski et al. or Myer, taken alone or in any proper combination, fail to disclose or suggest the subject matter as recited in the claims. Hence, withdrawal of the rejection is respectfully requested.

Each of the dependent claims also recite combinations that are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is not rendered obvious in view of the prior art references cited against this application. Applicant therefore request the entry of this response, the Examiner’s reconsideration and reexamination of the application, and the timely allowance of the pending claims.

In discussing the specification, claims, and drawings in this response, it is to be understood that Applicant in no way intends to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned patent agent at (202) 585-8316.

Respectfully submitted,

STUDEBAKER & BRACKETT PC

/Donald R. Studebaker/

Donald R. Studebaker

Registration No. 32,815

STUDEBAKER & BRACKETT PC

1890 Preston White Drive, Suite 105

Reston, Virginia 20191

(703) 390-9051

Fax: (703) 390-1277

don.studebaker@sbpatentlaw.com